

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Fred Billiter, Jr.,	:	
	:	
Petitioner	:	Civil Action 2:10-cv-00434
	:	
v.	:	Judge Marbley
	:	
Warden, Noble Correctional Institution,	:	Magistrate Judge Abel
	:	
Respondents	:	
	:	

ORDER

Petitioner Fred Billiter, Jr., a state prisoner, brought this action under 28 U.S.C. §2254 for a petition for writ of habeas corpus. This matter is before the Court on Magistrate Judge Abel's July 6, 2010 Report and Recommendation that respondent's June 18, 2010 motion to dismiss the petition as a successive petition or, in the alternative, transfer it to the United States Court of Appeals for the Sixth Circuit (doc. 3) be granted and that the petition be transferred to the United States Court of Appeals for the Sixth Circuit (doc. 5).

No objections to the Report and Recommendation have been filed. Petitioner Billiter requests that the case be transferred to the Court of Appeals. Upon *de novo* review as required by 28 U.S.C. §636(b)(1)(B), the Court ADOPTS the Report and Recommendation.

Respondent's June 18, 2010 motion to dismiss the petition as a successive petition or, in the alternative, transfer (doc. 3) is GRANTED and under the procedures adopted in *In re*

Jonathan Sims, 111 F.3d 45, 47 (6th Cir. 1997) this Court hereby TRANSFERS this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. §1631.

s/ Algenon L. Marbley
Algenon L. Marbley, Judge
United States District Court